IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 479 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT REFINARY RETIRED EMPLOYEES SANGH

Versus

INDIAN OIL CORPN. LTD.

Appearance:

Mr.Shalin Mehta for MR GIRISH PATEL for Petitioner

MR RP BHATT for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 05/10/2001

ORAL JUDGEMENT

The present petition is filed by Gujarat Refinery Retired Employees Sangh through its Secretary, Mr.V.V. Vaikar. As many as 73 persons whose details are set out in Annexure 'A' to the petition who retired between

31.7.1983 and 31.12.1987, filed this petition seeking relief to the effect that the benefit of Memorandum of Settlement of 1987, a copy of which is produced at Annexure 'B', be extended to said 73 employees who retired between 1983 to 1987 with retrospective effect and to pay all the benefits-- past, present and future, to them.

2. Mr.Shalin Mehta, learned advocate for the petitioner submitted that in fact right from the year 1981 there were attempts on the part of the employees on the one hand and the management on the other to work out some scheme so as to see that a suitable pension scheme may be introduced by the management for those employees who are not covered under the Deposit Linked Insurance Scheme. Mr.Mehta also submitted that there was a settlement for a period of four years from 1.5.1982 to 30.4.1986 wherein item no.18 provided for retiral benefits. Thereafter, on 26.12.1987 another settlement was signed by the said settlement whereby superannuation benefit fund scheme was introduced.

3. Mr.Mehta, learned advocate for the petitioner submitted that it is this scheme, the benefit of which is sought for by the present petitioners for 73 retired employees who retired between 1983 and 1987.

4. On the other hand learned advocate appearing for the respondent Corporation submitted that the scheme from its very nature is meant for the employees who were in service on a particular date as the benefit was to be worked out on the basis of the contribution from each of the employee on the basis of their basic pay. From the nature of the scheme it is clear that the scheme is not meant for those who have already retired. Learned advocate for the respondent also submitted that in any case extending the benefit of a particular scheme to a particular set of employees by providing a cut off date is always the discretion of the management and until that discretion can be said to be arbitrary or mala fide, interference of the Court is not called for in such decision of the management. Learned advocate for the respondents sought reliance on number of decisions of the Apex Court which are not discussed at length in view of the fact that the same are not required in view of the settled legal position. However, one judgement of the Apex Court which is relied upon by the learned advocate for the respondents in matter between State of Punjab & others v. Boota Singh & another, (2000) 3 SCC 733 is the last in line and in view of that the Court does not find any substance.

5. The petition is, therefore, dismissed with no order as to costs. Rule is discharged.

(Ravi R. Tripathi, J.)

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